IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

CRL.A.No. 888 of 1998(D)

ST.450/1994 OF ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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APPELLANT/COMPLAINANT:

P. SUDHIKUMAR,
DAS COTTAGE,
PALKULANGARA,
THIRUVANANTHAPURAM.

BY ADV. SRI.B.RAMAN PILLAI.

RESPONDENTS/ACCUSED & STATE:

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1. **V.S. SUBASH,**
   SYAM NIVAS,
   SOMAN NAGAR,
   KARAMANA,
   THIRUVANANTHAPURAM.

2. **STATE, REPRESENTED BY THE**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.C. SANTHOSH KUMAR.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl.Appeal No.888 OF 1998

Dated 7th February, 2007

JUDGMENT

This appeal is filed by the complainant against order of acquittal contending that cheque issued by the first respondent for Rs.25,000/= was dishonoured for insufficiency of funds. The complaint was filed as early as in 1994. Even though the summons issued to the accused was returned unserved, no valid steps were taken for issuing warrant to the accused. During the posting dates also the complainant was absent. Therefore, accused was acquitted under section 256(1) of the Code of Criminal Procedure. Acquittal of the accused under section 256(1) of Cr.P.C. for the absence of complainant is permissible under law. In this appeal, notice was issued as early as on 4.11.1998, but, it was not served so far and no effective steps were taken to cure the defects. Since acquittal of the accused under section 256(1) Cr.P.C. for the absence of the complainant is not illegal, there is no merit in the appeal.

The appeal is dismissed.

J.B.KOSHY
Judge

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